



UNITED STATES MARINE CORPS
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140-5001

DepO 1752.2A
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18 MAR 1991

DEPOT ORDER 1752.2A W/Chl

From: Commanding General
To: Distribution List

Subj: MCRD FAMILY ADVOCACY PROGRAM

Ref: (a) MCO 1752.3A
(b) SECNAV 1752.3

Encl: (1) Family Advocacy Program Definitions
(2) MOU between MCRD and Child Protective Services CPS
(3) Protocol for Action in Cases of Suspected Child Abuse

1. Purpose. To publish policies and guidance for the operation of the MCRD Family Advocacy Program (FAP).

2. Cancellation. DepO 1752.2.

3. Background. Marine Corps policies on family violence require the development of a program for the prevention, identification, reporting, assessment, treatment, and follow-up of child abuse, neglect, spouse abuse, and sexual assault. The Depot relies on the MCRD Family Service Center (FSC) to operate the FAP and to provide a full range of services for child and spouse abuse, and sexual assault cases. This directive provides commanders with guidance for the handling of family violence cases and identifies responsibilities of personnel associated with the FAP. References (a) and (b) provide guidance relevant to the implementation of this Order.

4. Scope

a. The FAP encompasses the elements of prevention, identification, reporting, assessment, jurisdiction, rehabilitation and discipline as they relate to child abuse/neglect, spouse abuse, incest, and sexual assault.

b. This Order is designed to provide a general guideline for the disposition of family violence cases involving members of this Command and their families.

c. The following categories of abuse are included in the scope of this Order, see enclosure (1) for definitions:

(1) Physical abuse of a child(ren) and/or spouse.

(2) Physical neglect of a child(ren) (including abandonment).

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(3) Emotional abuse of a child(ren) and/or spouse.

(4) Sexual abuse of child(ren) and/or spouse (including incest).

d. Duty assignment considerations as discussed in reference (a) apply to active duty Marines and their family members who are in or recommended for a rehabilitation program for the following:

(1) Sexual assault by non-family member.

(2) Incest, sexual abuse.

(3) Spouse abuse.

(4) Child abuse/neglect.

5. Objective. The FAP objectives are as follows:

a. Ensure all personnel are aware of the special needs of families involved in child/spouse abuse, incest and sexual assault; and, of the services available to help those families.

b. Ensure command and FSC cooperation in addressing family violence matters.

c. Use on and off-base resources efficiently in establishing prevention and treatment programs.

d. Enhance unit efficiency by restoring families to a healthy state through effective rehabilitation policies and programs.

e. Educate appropriate personnel in the identifying signs of child abuse and neglect, incest and sexual molest, spouse abuse, and sexual assault.

6. Discussion

a. Professionals who work with abused families have observed patterns that can put a family "at risk"; that is, to have the potential for family violence. Family violence includes physical, emotional and sexual abuse that occurs in the family unit. Financial difficulty, alcohol/drug abuse and job stress are often contributing factors. The Marine Corps places many unique stress factors upon the family by virtue of the lifestyle, family separation, long or irregular work hours, and frequent travel. Much of the abuse in these families is a result of ignorance of more acceptable behaviors.

b. Many Marines involved in family violence are often solid performers on the job. Once identified as abusers and placed in a treatment program, they can usually be educated to change their behavior. When offenders in family violence cases are summarily punished or separated from the service, their victims may perceive themselves as also being punished because of the emotional and financial difficulties that result. Subject to the gravity of the offense and the circumstances of previous military service, rehabilitation of certain offenders may be in the best interest of all concerned. When a balance of appropriate deterrent and rehabilitative options are used, the abusers can stop their abusive behavior and the service member can remain effective within the Command.

7. Policy

a. Acts of child and spouse abuse are incompatible with the high standards of professional and personal discipline required of members of the United States Marine Corps.

b. Once identified, an abusive Marine must be confronted and appropriate action taken. Commanders can help break the cycle of child and spouse abuse through identification and referral for assessment and treatment recommendations. See enclosures (2) and (3) for guidance. The decision to place a Marine in a treatment program is made by the offender's Commanding Officer. Commanders should be guided in their determinations by the following factors:

- (1) the Marine's demonstrated record of performance,
- (2) potential for future service,
- (3) motivation to change the behavior, and
- (4) the evaluation by competent counselors or medical personnel that the Marine is a good candidate for successful treatment.

c. In instances where investigation reveals other dysfunctions within the family such as alcohol abuse, or indebtedness, the Marine will be referred by his Command to the appropriate military or civilian agency for help. Such referrals will be made before completion of the Family Advocacy Program.

d. Since acts of child and spouse abuse affect all family members, rehabilitation efforts should be directed toward the total family, if possible.

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e. The Director of the Family Service Center (FSC) is the Family Advocacy Program Officer (FAPO) and will oversee the operation of the program.

8. Program Guidance. The FAP will operate within the established structure of the FSC. Commanders and the FSC will work in concert to ensure a viable Family Advocacy Program.

a. Prevention. Educating Marines and their families regarding child abuse and neglect, spouse abuse, incest, and sexual assault may stop, as well as prevent, such problems.

(1) Education. Special emphasis on educating key personnel regarding Family Advocacy matters will be done through periodic briefings. Included will be commanding officers and their staff, Chaplains, military police personnel, Staff Judge Advocate representatives, Child Development Center representatives, Drug and Alcohol counselors and appropriate medical and dental clinic personnel. Educational activities will also be offered, such as parenting classes, stress management, couples communication, premarriage workshops, and related programs.

(2) Information and Awareness. Awareness shall be accomplished through briefings, seminars, films and video presentations. The Family Service Center will conduct publicity efforts through the Depot paper, the CHEVRON, as well as periodic publicity campaigns coordinated with local and national efforts. National Child Abuse Awareness month is an example of a publicity campaign.

b. Identification and Reporting. The early identification of child abuse or neglect and spouse abuse is a task that all levels of command can learn and carry out. The first signs of such abuse may come to the command through a service member's statements and behavior, or from the member's spouse. Action at the earliest moment of suspecting such problems is critical. Immediate referral to the FSC, for assessment of all suspected child and spouse abuse is the appropriate action. See enclosure (3) for guidance.

(1) Safety Intervention. Identification of a high risk situation where service member, spouse, children or other individuals are in danger of harm or injury calls for prompt action. The safety of all concerned is foremost. The Command may intervene for safety by temporarily removing the military member from the home by ordering the Marine to stay away from the alleged victim(s), their home, and their workplace. This is a Military Protection Order (MPO) and can be verbal or written. See enclosure (3) Appendix B for details and a model MPO.. Appropriate length of separation will be determined by assessment of danger level by the FSC and the Command.

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(2) Reporting. The task of reporting child abuse or neglect, spouse abuse, or sexual assault has several levels. California Child Abuse Reporting Law, Penal Code, Article 2.5, Child Abuse and Neglect Reporting Act, as well as military orders, require reporting suspected child abuse. Military orders require reporting allegations and incidents of spouse abuse and sexual assault. Reporting is carried out for purposes of safety, intervention, and data collection. See enclosures (2) and (3) for guidance on reporting.

(a) All Personnel. Commanding Officers, Officers in Charge and, all personnel employed by or attached to MCRD with knowledge or suspicion of an abuse incident shall report that incident through their chain of command. The command shall report to the Family Service Center Director, Deputy Director or Family Advocacy Program Manager. This reporting is to be done immediately. Appropriate medical care of the victims shall be initiated as the situations warrant.

(b) Child Protective Services (CPS). The FSC Director, FSC personnel who are mandated reporters, and all mandated reporters under California law will report all known or reasonably suspected incidents of child abuse and neglect to the County CPS Agency in accordance with enclosure (3), paragraph 2a. Enclosure (2), the Memorandum of Understanding between MCRD and CPS, provides the basis for these reporting requirements.

(c) Jurisdiction. The Commanding General has ceded no jurisdiction to local civilian authorities in child abuse cases aboard MCRD. As Installation Commander the Commanding General retains ultimate responsibility for the welfare of all persons aboard the Depot. MCRD abides fully with California law in all matters of child abuse and neglect. Cooperation by MCRD personnel with the County Child Protective Service Agency and law enforcement officials is directed through a Memorandum of Understanding (MOU), enclosure (2). Enclosure (3), Appendix C provides a discussion of federal jurisdiction and CPS authority in child abuse cases aboard the Depot. The Commanding General retains ultimate authority over child abuse cases aboard the Depot.

(d) Reporting to Command. The FSC Director is responsible for reporting to the proper command personnel all abuse cases that are known to the center. Commands will also be informed of: recommendations for crisis intervention following assessment; rehabilitation recommendations following review by the Family Advocacy Case Review Committee (FACRC); progress in rehabilitation; and, final outcome of the rehabilitation program.

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c. Assessment and Recommendations

(1) Assessment of all alleged Family Advocacy incidents will be conducted at the FSC by a professional family counselor. The psychosocial assessment, and relevant collected documents will be reviewed by the Family Advocacy Case Review Committee as defined in paragraph 9 below. The FACRC will establish the status of the case as follows: substantiated, unsubstantiated unresolved, or unsubstantiated did not occur. See enclosure (1) for definitions. In addition, rehabilitation potential will be evaluated.

(2) Recommendations for rehabilitation and/or administrative or disciplinary actions will be reviewed and approved by the FACRC. The recommendation will be provided to the command for action. Command action will include the evaluation of the active duty member's record of past performance as related to potential for future positive service. The command will decide if it is appropriate to:

(a) order the individual to participate in and complete the Family Advocacy Rehabilitation Program recommended, and/or;

(b) take appropriate administrative or disciplinary action.

The preferred course of action when the rehabilitation potential and future service potential are positive is mandated rehabilitation.

d. Rehabilitation. The mandating of a service member into rehabilitation will consistently consider the entire family. In all cases the rehabilitation program will be designed to treat servicemembers for their problems of spouse abuse, child abuse and/or neglect, and/or rape or sexual assault.

(1) Treatment in the rehabilitation program may include, but is not limited to the following:

(a) Marriage Counseling,

(b) Family Counseling,

(c) Individual Counseling,

(d) Group Treatment,

(e) Help End Abusive Relationships Today (H.E.A.R.T.)
(a treatment program for perpetrators of spouse abuse),

- (f) Parent Education classes,
- (g) Women's Education and Support Group,
- (h) Stress Management classes, and
- (i) Anger Control classes.

(2) Objectives of the rehabilitation program will focus first on stopping the abuse. No further incidents of abuse, neglect, or sexual assault is the ultimate aim. In addition, restoration of healthier family functioning and effective military service are key objectives.

(3) Success in the rehabilitation program demands cooperation with and participation in the full recommended and mandated treatment regimen. Completion of the rehabilitation program, with no further incidents of abuse, neglect, or sexual assault upon follow-up, shall be a criterion for success.

(4) Follow-up with the service member and the family will consistently be conducted by the FSC. The command will be provided with follow-up reports during and upon completion of the rehabilitation program.

e. Disciplinary and Administrative actions are to be carried out by the command in accordance with reference (a). Appropriate times for such disciplinary and/or administrative actions include but are not limited to the following:

(1) Offenses for which prosecution under the UCMJ is the course of action and conviction ensues.

(2) Cases, which by the history of severity, duration and frequency of occurrence are judged by the appropriate medical, mental health, and FSC professionals as not amenable to treatment.

(3) Failure cases, such as those in which the service member fails to participate, cooperate, and complete the prescribed treatment and/or repetition of the abuse, neglect, or sexual assault has occurred or is occurring.

(4) The Command's choices of disciplinary or administrative actions includes separation from the service. A deterrent effect may occur from effective use of such actions by the command. The impact of disciplinary action on the victim and the entire family should be considered.

f. Confidentiality. The protection of the individual's privacy to the utmost possible, under the restrictions of

governing laws and orders, is critical to an effective Family Advocacy Program. Only personnel with a legitimate need to know shall be provided information regarding specific allegations; charges; assessment; rehabilitation recommendations; command actions; and follow-up reports.

(1) Client's rights to confidentiality are to be protected as guided by references (a) and (b) and the Privacy Act.

(2) Information, written and oral, will be treated with judicious sensitivity when it is communicated or transmitted and safeguarded by appropriate security where it is kept.

(3) Command personnel will establish standards and procedures for assuring maximum confidentiality for individual service members and their families.

9. Family Advocacy Case Review Committee (FACRC)

a. The FACRC shall make the actual determination of whether abuse is substantiated, unsubstantiated unresolved, or unsubstantiated did not occur. See enclosure (1) for definitions. The Family Advocacy Program Manager (FAPM) shall Chair the FACRC.

b. Responsibilities of the FACRC are as follows:

(1) Review and approve assigned counselor's treatment recommendations.

(2) Forward results of case evaluations with recommendations for or against treatment to the Marine's Commanding Officer. Rehabilitation recommendations will provide specific, detailed steps for the service member and family to complete.

(3) Report the cases of repeat child/spouse abuse offenders, who are not making satisfactory rehabilitation progress, to the Marine's Commanding Officer. Make a recommendation to command for appropriate administrative or disciplinary action including separation. When recommending retention, additional rehabilitation steps will be included.

c. Membership of the FACRC will consist of the following voting members. Consulting and advising professionals may be invited to specific meetings on specific cases, but will not be voting members.

(1) Family Advocacy Program Manager.

ch1 (In the case of a grievance filed against the FACRC, the Chief of Staff or the AC/S, G-1 would handle the grievance, in place of the AC/S, GMB.) DepO 1752.2A 18 MAR 1994

- Quality Management Department.
- (2) Depot Command representative, filled by the AC/S,
- (3) Medical Clinic representative.

ch1 (4) Substance Abuse Control Counselor,

(5) Staff Judge Advocate's (SJA's) representative.

(6) Provost Marshal's representative.

ch1 d. FACRC will meet weekly at a minimum. Date and time will be at the discretion of the chairperson.

e. Cases will be presented by the assigned counselor along with the treatment plan.

10. Family Advocacy Committee (FAC)

a. Reference (a) requires the Commanding General to establish the FAC as a multi-disciplinary committee. The purpose of the FAC is to formulate policy and advise commanders of their roles and responsibilities in the Depot Family Advocacy Program.

b. The Assistant Chief of Staff, G-1 shall establish a FAC and conduct meetings quarterly, or as needed.

c. The FAC shall:

(1) Ensure the MCRD FAP remains within the Department of Defense and USMC policy guidelines.

(2) Review and approve goals and objectives of the MCRD FAP.

(3) Provide input into the local annual FAP plan.

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(4) Foster a Coordinated Community Response (CCR) to family violence by developing an awareness and understanding of family violence within the Marine Corps community.

(5) Provide administrative oversight of the Family Advocacy Case Review Committee.

(6) Encourage installation wide cooperation and collaboration on family advocacy matters.

(7) Operate as a Quality Management Board (QMB) for the purposes of planning and improving specific FAP processes. The chairperson shall appoint the QMB members contingent on the process under evaluation.

d. The Chairperson and members of the committee shall be appointed in writing. The following permanent members shall comprise the MCRD FAC:

- ch1
- (1) Assistant Chief of Staff, G-1 (Chairperson)
 - (2) Family Advocacy Program Manager
 - (3) Staff Judge Advocate Representative
 - (4) Provost Marshal
 - (5) Head, Branch Medical Clinic
 - (6) Assistant Command Chaplain
 - (7) Substance Abuse Control Center Officer
 - (8) Naval Criminal Investigative Officer
 - (9) Staff Judge Advocate's representative
 - (10) Depot Sergeant Major
 - (11) Assistant Command Chaplain
 - (12) Depot Inspector
 - (13) Provost Marshal
 - (14) Head, Branch Medical Clinic

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(15) Dental Officer

(16) Director, Family Service Center

(17) Family Advocacy Program Manager, Family Service Center

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(1) Substance Abuse Control Center Officer

(2) Director, Child Development Center

11. Action

a. The FSC Director as the Family Advocacy Program Officer (FAPO) is tasked with the following:

(1) Operate the Family Advocacy Program in accordance with references (a), (b) and this Order.

(2) Maintain policies and procedures for the conduct of all aspects of the MCRD Family Advocacy Program.

(3) Keep apprised of new developments within the Family Advocacy Program that may go beyond the scope of the current order and take appropriate action.

b. Commanding Officers shall act in accordance with references (a), (b) and this Order.

c. The Provost Marshal's Office shall maintain liaison with the Family Service Center and local law enforcement agencies concerning notification of family violence incidents.

d. The Staff Judge Advocate's office shall provide:

(1) Legal guidance to the Family Advocacy Program Officer regarding questions that may arise.

(2) Legal assistance and advice to service members regarding their rights, when allegations of spouse abuse or child abuse or neglect have been made, or formal charges have been filed.

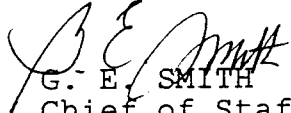
e. The Child Development Center Director, or designated staff member, shall notify the FSC Director, Deputy Director, or FAPM of all suspected cases of child abuse or neglect. The Child Development Center Director, after conferring with the FSC, shall report such cases to the Child Protective Service in accordance

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with California law. The Child Development Center shall conduct all Family Advocacy business in cooperation with the FSC and shall not work independent of the FSC. See enclosure (3) for guidance.

12. Summary of Revision. This revision contains a substantial number of changes and should be completely reviewed.


G. E. SMITH
Chief of Staff

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MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140-5001

OFFICIAL

DepO 1752.2A Ch 1

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11 MAY 1995

DEPOT ORDER 1752.2A Ch 1

From: Commanding General
To: Distribution List

FILE COPY

Subj: MCRD FAMILY ADVOCACY PROGRAM

Encl: (1) Family Advocacy Program wheels

1. Purpose. To direct pen changes to the basic Order.

2. Action

a. On page 9, paragraph 9.c(2), change sentence to read "Depot Command representative, filled by the AC/S, Quality Management Department."

b. On page 9 immediately following paragraph 9.c(2) add the following note.

"Note: In the case of a grievance filed against the FACRC, the Chief of Staff or the AC/S, G-1 would handle the grievance, in place of the AC/S, QMD."

c. On page 9, paragraph 9.c(3), delete paragraph following "Medical Clinic representative".

d. On page 9, change subparagraph 9.c(4) to read "Substance Abuse Control Counselor".

e. On page 9, delete subparagraphs 9.c(7) and 9.c(8).

f. On pages 10 and 11 paragraph 10.d change the committee membership to read:

- (1) Assistant Chief of Staff, G-1 (Chairperson)
- (2) Family Advocacy Program Manager
- (3) Staff Judge Advocate Representative
- (4) Provost Marshal
- (5) Head, Branch Medical Clinic
- (6) Assistant Command Chaplin
- (7) Substance Abuse Control Center Officer
- (8) Naval Criminal Investigative Officer

g. On page 11, delete subparagraph 10.e.

h. Add the enclosure as enclosure (4) to the basic Order and change the promulgation page accordingly.

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3. Filing Instructions. File this change transmittal immediately behind the signature page of the basic Order.



E. L. GOBELI
Chief of Staff

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FAMILY ADVOCACY PROGRAM DEFINITIONS

The following definitions are intended solely for the administration of the program in this Order. They do not modify or influence definitions applicable to statutory provisions and regulations that relate to determination of misconduct and line of duty, and criminal responsibility for a person's acts or omissions.

1. Abuse. Direct physical injury, trauma, or emotional harm intentionally inflicted on a child or spouse, or inflicted through a wanton or reckless disregard of the safety and welfare of the injured party.

2. Abuse/Neglect. Specific types of abuse/neglect are:

a. Physical abuse of a child includes but is not limited to:

(1) Major injuries such as brain damage, skull or bone fracture, subdural hematoma, sprain, internal injury, poisoning, scalding, severe cut(s), lacerations, bruises, or any combination which constitutes a substantial risk to the life and/or well-being of the child.

(2) Minor physical injury such as twisting, shaking (which can be a major injury with infants), less severe cuts, bruises, welts, or any combination which does not constitute a substantial risk to the life or well-being of the child.

b. Sexual abuse of a child. The involvement of a child in any sexual act or situation, the purpose of which is to provide sexual gratification or financial benefit to the perpetrator. All sexual activity between a caretaker and a child is considered sexual abuse.

c. Neglect of a child (or deprivation of necessities). Neglecting to provide nourishment, clothing, shelter, health care, education, and supervision, when having a duty and ability to provide for the child.

d. Emotional abuse/neglect of a child. Any act of commission (such as intentional beating, disparaging or other abusive behavior) or omission (such as passive/aggressive inattention to a child's emotional needs) on the part of the caretaker which causes low self-esteem in the child, undue fear or anxiety, or other damage to the child's emotional well-being.

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e. Child abuse/neglect. A situation in which any combination of categories (a) through (d) above are present.

f. Spouse abuse. Assault, violence, or threats of violence inflicted on a partner in a lawful marriage (see definition of Spouse Abuse).

g. Fatality. A death resulting from the abuse/neglect.

3. Accountability. The process by which an offender is held accountable for his or her behavior in family maltreatment incidents. Examples of methods by which the command may hold the servicemember accountable, where the servicemember has been identified as the offender in accordance with this Order, include, but are not limited to: Arrest of the primary aggressor and courts-martial or NJP, when appropriate. Page 11 entries for substantiated reports of family maltreatment. Treatment programs based on the offender's amenability to change behavior through treatment.

4. Assault. A threat, offer, attempt, or an actual use of unlawful force or violence to do bodily harm to another person. The Manual for Courts-Martial (MCM) defines assault to include:

a. Simple assault. The threat, offer, or attempt to do bodily harm to another person done with unlawful force or violence.

b. Assault completed by a battery. Actual bodily harm was done to the other person with unlawful force or violence.

c. Aggravated Assault. Assault with a dangerous weapon or other means of force likely to cause death or grievous bodily harm.

(See Article 128 of the MCM for detailed legal definitions).

5. Caretaker. Anyone who has the responsibility for the physical or emotional well-being of a child at a given time.

6. Case. An individual victim of abuse and/or neglect or an at-risk family. Cases classified as substantiated, unsubstantiated unresolved, or unsubstantiated did not occur are categorized by victim and not by offender. Case refers to all incidents involving one particular victim in which maltreatment was classified as substantiated, unsubstantiated unresolved, or unsubstantiated. Each victim in a family is a separate case. For FAP workload statistics and counseling purposes, offenders, each victim and at risk families are separate cases.

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7. Case Status as determined by the FACRC. The finding of the FACRC at the time the case is assessed and staffed by the committee. Possible determinations include:

a. Substantiated. A case that has been investigated and the preponderance of available information indicates that abuse or neglect has occurred. This means that the information that supports the occurrence of abuse is of greater weight or more convincing than the information that indicates that the abuse or neglect did not occur.

b. Unsubstantiated Unresolved. An alleged case that has been investigated and the available information is insufficient to support the claim that maltreatment did occur. Case status in this category is distinguished from the category below in that needed assessment information is unavailable or unobtainable.

c. Unsubstantiated Did Not Occur. An alleged case that has been investigated and the available information is not only insufficient to support the claim that maltreatment did occur, but additionally, there is convincing evidence indicating no maltreatment occurred.

8. Central Registry. The Marine Corps index containing substantiated, unsubstantiated unresolved, unsubstantiated did not occur reports. The registry is maintained by the Headquarters Marine Corps Family Advocacy Program Manager at Code (MHF). The FAP Manager is required to report cases on the appropriate form for inclusion in the registry.

9. Child. An unmarried person, whether natural child, adopted child, foster child, stepchild, or ward, who is a dependent of the military member or spouse and who either:

a. Is age 18 or under, or;

b. Is incapable of self-support because of a mental or physical incapacity for which treatment is authorized in a medical facility of the military services.

10. Child Abuse/Neglect. The physical injury, sexual abuse, emotional abuse/neglect of a child as defined above, by a parent, guardian, employee of a residential facility, or any staff person providing out-of-home care, who is responsible for the child's welfare, under circumstances that indicate that the child's welfare is harmed or threatened. The term encompasses both acts and omissions on the part of responsible person(s).

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11. Coordinated Community Response (CCR). An interdisciplinary and multiagency response to ensure victim safety. This requires a consistent and immediate response from individual community members such as other family members, neighbors, teachers, doctors, day care providers, and all witnesses to report abuse; chaplains and other church membership to prevent and report abuse (so long as the reporting doesn't breach clergy-penitent privilege), the military and civilian police to arrest the primary aggressor and ensure all incident reports are forwarded to the FAPO, military and civilian prosecutors to pursue judicial action, and command leadership to prevent further abuse and to protect victims and other family members from additional abuse. This implies responsibility for a culture which condones, ignores or trivializes the harm caused by family maltreatment. All community members will enforce zero tolerance for spouse and child abuse. The military community is responsible for holding the offenders of abuse accountable for their behavior through consistent monitoring of their behavior and tracking their movement within the military community to ensure no recidivism.

12. Extra-familial. Term used to describe a child abuse/neglect case in which the offender's relationship to the child is outside the family. This category ranges from known individuals living or visiting in the same residence who are unrelated to the victim by blood or marriage, to individuals unknown to the victim.

13. Family Advocacy Case Review Committee (FACRC). The multidisciplinary team of service providers and other professionals directly involved with individual cases of abuse and neglect. The FACRC is charged with reviewing all reported incidents, determining case status, and recommending treatment and disposition of the case to the command. The chairperson shall be the FAP Manager (FAPM). Permanent voting members of the FACRC shall be: The FAPM and one representative each from the Depot Command, Medical Clinic, SACC, SJA, and CID. The FAP counselor of the servicemember being discussed and a representative of that servicemember's command are voting members and must also be present.

14. Family Advocacy Committee (FAC). The multidisciplinary committee established by the Commanding General whose purpose is to assist the command in policy guidance and oversight of the Depot Family Advocacy Program. The Assistant Chief of Staff, G-1 will be the chairperson of the FAC unless otherwise directed by the Commanding General.

15. Family Advocacy Officer (FAO). The individual assigned by the unit commander to act as the liaison and monitor of the

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Family Advocacy Program at the unit level. The FAO may be tasked with attending FACRC meetings on specific cases.

16. Family Advocacy Program (FAP). The program designed to address the prevention of family maltreatment and to address direct services which may include identification, reporting, assessment, intervention, counseling and rehabilitation, training, administration, and program evaluation in the field of family maltreatment. The program is designed to prevent abuse and/or to intervene in families where there is substantiated or suspected abuse, to promote healthy family life.

17. Family Advocacy Program Manager (FAPM). The FSC staff member who is designated by the FSC Director to implement and manage the Family Advocacy Program at the FSC and to coordinate reporting and treatment for all Family Advocacy Program cases on the Depot. The FAPM must be a licensed, credentialed mental health professional, and independent CHAMPUS provider.

18. Family Advocacy Program Officer (FAPO). The officer designated to direct and monitor the Family Advocacy Program. The FSC Director will be the FAPO unless otherwise directed by the Commanding General.

19. Harm. Includes, but is not limited to:

a. Physical, emotional, or mental injury, including physical injury resulting from otherwise lawful corporal punishment of children (that is, customarily accepted parental discipline) which may be unlawful when it disfigures, impairs, or otherwise traumatizes an individual.

b. A sexual offense, whether assaultive or nonassaultive, accomplished or attempted (as defined in the UCMJ or State statutes).

c. Failure to supply a child or dependent with adequate food, clothing, shelter, education (as defined by State statutes), or health care, though possessing financial or other reasonable means to do so. Adequate health care includes any medical or non-medical remedial health care permitted or authorized under State statutes.

d. Abandonment of child or spouse, as defined by State statute.

e. Failure to provide a child with adequate care, supervision, or guardianship.

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20. High Risk. A term used to identify groups of individuals of families which statistically have a strong possibility of becoming involved in some form of abuse/neglect.

21. Incest. Any sexual activity between persons who are closely related either by blood or legally (except by marriage), such as through adoption. Sexual abuse by familial caretakers (other than live-in guardians) may sometimes be viewed as incest depending upon the specifics of the case. For purposes of the Depot FAP, any sexual activity occurring between a parent/step-parent and a child in their care or custody is considered incest. Sexual activity between parent/step-parent and same sex child is to be treated as incest, not homosexuality.

22. Intra-familial. Term used to describe a child abuse/neglect case in which the offender has responsibility for the child's welfare and is either a parent or is related by blood or marriage.

23. Juvenile Offender. Abuse or neglect committed by any person under the age of 18 years upon another juvenile, or an adult. Sexual abuse by a juvenile differs from what would be considered age appropriate peer play between children, in that there is an inequality between participants, including aspects of: exploitation; coercion and control; manipulation; and, abuse of power; as well as the sexual behavior itself. Hands-off sexual offending (peeping, exhibiting, obscene phone calls, etc.) should be considered components of a sexual offending continuum.

24. Maltreatment. A generic term which covers all forms of abuse/neglect covered in the Depot Family Advocacy Program. For further clarification see definitions of abuse/neglect.

25. Mutual Battering. See "Primary Aggressor."

26. Neglect. Deprivation of necessities including failure to provide nourishment, shelter, clothing, health care, education, and supervision. Inadequate and/or improper care that results or could reasonably result in injury, trauma, or emotional harm, including failure to thrive.

27. Offender (abuser, neglecter or perpetrator). The person directly or indirectly responsible for the resultant abuse or neglect which befalls an individual. Any person whose act or failure to act, if he/she had the legal duty to act, substantially impairs the health or well-being of the victim. An offender can be any person, civilian or military, related or not related to the victim.

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28. Primary Aggressor. The person who maintains power and control in an abusive incident regardless of:

- a. which one started the physical or verbal action,
- b. which one continued the dispute, or
- c. which one provoked the event.

Focus upon the overall outcome is the key to determining the primary aggressor. The overall outcome of the abusive incident will most often be evidenced by who's suffered more injuries and how the injuries fit with the logical, internal consistency of statements made by the two parties describing what occurred. Legitimate self defense actions are not to be the basis for determining the primary aggressor. The concept, primary aggressor serves to remove the terms mutual combat, mutual combatants, co-battering, mutual battering, or mutual spouse abuse in most cases.

29. Self-defense. A plea of justification for the use of force. The act of legally defending oneself, one's property, or a close relative.

30. Sexual Abuse. Sexual behaviors which constitute an offense; sexually violating or exploiting; sexual behavior without consent. Sexual behaviors include: voyeurism; exhibitionism; fondling of breasts or genitals; oral stimulation of genitals; penetration by a finger or object; vaginal or anal intercourse; or involvement with manufacture of pornography.

31. Spouse. A partner of the opposite sex in a lawful marriage. For the purposes of this Order, one or both of the partners must be a servicemember, or affiliated with the Department of Defense. This may also include a common law marriage.

32. Spouse Abuse. Assault, battery, threat to injure or kill, or other act of force or violence, destruction of property, harm to victim's pets, or emotional abuse inflicted on a partner in a lawful marriage when one or both of the partners is a servicemember, or affiliated with the Department of Defense. A spouse under 18 years of age will be treated in this category.

33. Victim. An individual who is the subject of abuse or neglect, or whose welfare is harmed or threatened by acts of omission or commission by another individual or individuals.

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34. Victim Advocate. A representative for a victim. One who pleads the case of or protects the best interests of a victim. Under the provisions of the Omnibus Crime Control Act of 1990, the Marine Corps will have the responsibility of assigning a victim advocate in certain family advocacy cases. This person need not be a lawyer, but must be able to represent the victim's best interests to either the lawyer or the judicial authority.

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MEMORANDUM OF UNDERSTANDING

between the

MARINE CORPS RECRUIT DEPOT, SAN DIEGO

and

SAN DIEGO COUNTY CHILD PROTECTIVE SERVICES

1. PURPOSE. The purpose of this Memorandum of Understanding (MOU) is to record the understanding between the relevant authorities concerning the procedures that may be taken in reporting and investigating child abuse cases where the abuse either occurs or is discovered when the child (victim) is aboard the Marine Corps Recruit Depot (MCRD), San Diego, or when a suspect is attached to an MCRD command.

2. BACKGROUND. Cases of child abuse and/or neglect generally fall into three categories: physical abuse, sexual abuse, and neglect (failure to provide food, clothing, shelter, medical care, or supervision). These incidents may come to the attention of either federal, state, or local authorities. Close cooperation between these sovereigns is imperative to insure proper investigation, prosecution, protection, and subsequent treatment of the victims, their families, and the offenders.

a. This MOU was developed in response to federal and state laws which indicate a need of cooperation between state child protective agencies and federal military installations regarding the reporting, investigation, prosecution, and treatment of child abuse and neglect.

The MOU is designed to facilitate the initial and on-going investigation of child abuse allegations and to establish an agreement regarding the protection and possible treatment of the victim and the family.

b. While the jurisdictional circumstances of each case will vary, and hence preclude the definitive assignment of investigation, prosecution, protection, and treatment responsibilities, some general guidelines can be stated:

(1) Federal authorities have criminal investigative jurisdiction over crimes perpetrated by active duty servicemembers, wherever the crime occurs.

(2) Federal authorities have criminal investigative jurisdiction over crimes committed by civilians while located aboard a federal enclave of concurrent or exclusive federal jurisdiction.

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(3) Local law enforcement authorities also have criminal investigative jurisdiction over crimes committed by active duty servicemembers and civilians unless the crimes are perpetrated on an enclave of exclusive federal jurisdiction.

(4) It is agreed and understood by all the signatories to this MOU that CPS has no criminal prosecution authority, but rather, is equipped, organized and authorized under California state law to conduct child abuse investigations and receive children into protective custody.

(5) State, local, and federal authorities have programs for the treatment of child abuse victims, their families, and offenders.

c. The major goal of the parties is the welfare of the child. Further trauma to child abuse victims and their families should be minimized through coordination of the parties' investigative efforts.

3. POLICY

a. The Commanding General (CG), MCRD, is responsible for the security of MCRD and the safety of all those who are aboard the Depot. MCRD, San Diego is a federal military enclave, of mostly exclusive federal jurisdiction, thus the United States is responsible for all law enforcement functions.

b. At present, however, the United States and MCRD lack the comprehensive programs required to place victims of abuse in protective custody. Furthermore, virtually all child abuse cases discovered aboard the Depot occurred at some other place prior to the child arriving at MCRD.

c. Accordingly, the CG desires to utilize the services of California agencies that regularly deal with these cases. Furthermore, CPS desires full cooperation to enable it to more effectively perform its professional and statutory responsibilities.

d. Therefore, it is the policy of MCRD to fully cooperate with the California authorities in matters of child abuse. It is the policy of CPS to promptly respond to requests for assistance in accordance with the procedures set forth below.

4. PROCEDURES

a. Suspected Child Abuse Victim Discovered Aboard MCRD, San Diego by Federal Authorities

(1) If evidence of child abuse is discovered or an instance of child abuse is suspected aboard MCRD, the San Diego County Child Abuse Hotline will be immediately notified by telephone at 560-2191.

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(a) The person who discovers the suspected abuse will adhere to all internal procedures established by MCRD personnel with regard to notifying the command about a case of suspected abuse.

(b) The Director, Family Services Center (FSC), MCRD will complete and send within 36 hours the Suspected Child Abuse Report Form (SS 8573).

(c) It is understood and agreed upon by both sovereigns that the internal suspected child abuse notification procedures established by MCRD personnel are designed to fulfill military cross-reporting requirements and will in no way impede the immediate report to and possible investigation by CPS.

(d) The Director, FSC, or his designated representative, will become the principal point of contact aboard MCRD. The Naval Investigative Service (NIS) and/or Criminal Investigation Division (CID) will assist and otherwise cooperate in the on-board investigation. The Military Police (MP) and other military authorities will provide any further required support.

(2) If, after being notified of the suspected abuse, CPS desires to avail themselves of the invitation to come aboard MCRD to investigate, its representative(s) will, upon arrival, notify the MP at the gate of their identity and purpose, and will then proceed to the FSC. The federal agents will fully cooperate in the investigative effort and provide appropriate investigative support. CPS may bring a reasonable number of officials aboard the Depot to assist in any evaluation and/or investigation.

(3) Once aboard MCRD, the state and federal agents will conduct an expeditious joint investigation to determine what action, if any, may be appropriate. If, after conducting the investigation, the state authorities recommend removing the child from MCRD, and hence from the parents' control as well, the federal agent will immediately arrange a meeting between a representative of the SJA and the state agent.

(4) At that meeting, the state agent will inform the SJA of the decision to remove the child and upon what criteria the decision was based. It is understood and agreed upon by both sovereigns that the CG, MCRD, has a right and responsibility to know the outcome of the suspected abuse investigation, but that notification of the decision to remove the child shall not result in prevention of the removal of the child.

(5) If, in the process of investigating the alleged child abuse or in removing a child from MCRD and the custody and control of the parents, a parent or other party becomes belligerent and/or attempts to interfere with the investigation or lawful removal, federal authorities will be responsible for controlling the situation, to include apprehension if necessary. The state agents will not make any apprehension of civilian or military personnel aboard MCRD.

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b. Suspected Child Abuse Victims Discovered by State Officials. CPS agrees to notify the Director, FSC of any alleged child abuse cases in which the offender is believed to be an active duty servicemember assigned to MCRD or where the offense appears to have been committed aboard MCRD. The Director, FSC will notify the Provost Marshal who will notify NIS as required by MOU between NIS and CMC. If CPS desires to investigate, the procedures set forth in paragraph 4 above will be followed. The questions of investigating, prosecuting, protecting, and treating the victims, their families, and the offenders will be resolved in the same fashion as set forth in paragraph 2 of this MOU.

5. RELEASE OF INFORMATION/CONFIDENTIALITY

a. The parties to this MOU agree to release information to each other when so requested for purpose of initial and on-going investigations.

b. Reports of suspected child abuse and the information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under state or federal law.

(2) Persons or agencies with whom investigations or treatment of child abuse are coordinated under regulations promulgated by state or federal authorities.

(3) It is understood and agreed upon by both sovereigns that NIS, CID, MP and prosecuting attorneys from the Office of the Staff Judge Advocate are the federal equivalent of local civilian law enforcement agencies responsible for criminal investigations and prosecution of child abuse and neglect.

c. CPS agrees, for the purposes of investigation and prosecution, in accordance with state law, to share information regarding allegations of child abuse and neglect involving active duty personnel or where the suspected incident occurred aboard MCRD, with NIS, CID, MP, and military criminal prosecution personnel.

d. Personnel from MCRD who are investigating and/or prosecuting child abuse allegations agree to share information with CPS.

e. In accordance with state law, the person who made the initial report will be informed of the results of the investigation and of any action taken by CPS.

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f. This paragraph shall not be interpreted to allow disclosure to parties outside of this MOU of any report or record relevant to incidents of child abuse if the disclosure would be prohibited by any other provision of applicable state or federal law. In this regard, it is understood and agreed upon by both sovereigns that military superiors in the alleged offender's chain of command are not "employers" as defined by state law.

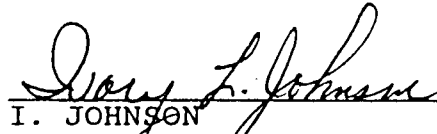
g. The parties agree to make every reasonable effort to maintain the privacy of victims, offenders, and their families. Information will be strictly safeguarded and held in a confidential manner.

7. TERM OF MOU. This MOU shall be in force until terminated or modified. It may be modified at any time by consent of both parties or terminated unilaterally by any subscribing party upon written notice. The term "party" includes not only the signatories but also their successors.



J. M. GUERIN
Colonel, U.S. Marine Corps
Chief of Staff
Marine Corps Recruit Depot
San Diego, California

10/21/92
Date



I. JOHNSON
Deputy Director
Children's Services Bureau
Department of Social Services
San Diego County

11-10-92
Date

ENCLOSURE (2)

PROTOCOL FOR ACTION IN CASES OF SUSPECTED CHILD ABUSE

APPENDIX

- A California Child Abuse Reporting Law
- B Military Protection Order (MPO)
- C Jurisdiction in Child Abuse Cases

1. Background. From time to time indicators or behaviors are observed which may be consistent with a potential instance of child abuse. These incidents are most unfortunate and intensely private and personal, yet the command's primary interest must be the welfare of the child and the efficient and expeditious resolution of any reasonable suspicion of child abuse. Child abuse which occurs outside the depot is initially the responsibility of the state or local civil officials for investigation, protective action, rehabilitation and law enforcement. Cases which occur aboard the depot are the responsibility of the United States government and the Commanding General. It is often difficult to ascertain, simply on the basis of observable evidence, what has occurred, much less where. It is understood that the internal suspected child abuse reporting and notification procedures are designed to fulfill military cross-reporting requirements and will in no way impede the immediate report to and possible investigation by CPS. Accordingly, the following guidance is to be adhered to whenever a case of suspected child abuse is observed in any form upon MCRD, San Diego.

2. Action. Evidence of suspected child abuse is to be immediately reported. The child's welfare is the primary concern at this initial level of reporting and notification. When in doubt, report. The California Child Abuse Reporting Law requires immediate reporting of suspected child abuse.

a. Reporting. Reporting suspected child abuse and neglect, has several levels. State law and military orders require reporting allegations and incidents for purposes of protection, investigation, assessment, and intervention.

(1) Military personnel with knowledge or suspicion of an abuse incident shall report that incident immediately, through their chain of command, to their commanding officers. All civilian personnel must report such incidents to their supervisors. Commanding officers and supervisors must report this information immediately to the FSC Director, Deputy Director, or Family Advocacy Program Manager. This reporting is to be done immediately in order that the FSC may comply with reporting requirements under state law. Appropriate medical care of the victims shall be initiated as the situation warrants.

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(2) Child Protective Services (CPS). The FSC director, FSC personnel who are mandated reporters, and all mandated reporters under California law will report all known or reasonably suspected incidents of child abuse and neglect to the county CPS Agency. As mandated by California law, reporting to CPS will be done immediately or as soon as practically possible by telephone, to the San Diego County Child Abuse Hotline, telephone number 560-2191. A written report shall follow within 36 hours.

(3) All mandated reporters will also report all such incidents to the FSC director as soon as practically possible. See appendix A, paragraph 2 for detailed information on who is a mandated reporter.

(4) Consultation with the alleged offender's commanding officer regarding an incident or allegation of suspected child abuse or neglect can be a valuable form of getting information. Mandated reporters can use such consultations to get information relevant to a specific incident or allegation. This information may assist in assuring sufficient evidence exists to meet the reasonable suspicion standard as defined in the state law. Such a consultation will not be used to impede or inhibit the reporting duties of the mandated reporter. Consulting during the identification and reporting process can serve the common purposes of protecting children and safeguarding parents' or other alleged offenders' rights.

(5) Reasonable suspicion is defined in the state law under Section 11166 subdivision (a) as follows: "For the purposes of this article, reasonable suspicion means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse."

b. Command Notification. The FSC director is responsible for notifying the G-1 and the appropriate commanding officers of abuse cases that are known to the center.

(1) The FSC director will immediately notify the G-1 and the appropriate commanding officer to ensure the protection of the child and privacy of alleged offenders' identities. The FSC director will notify the Provost Marshal, or Assistant Provost Marshal, of the allegation and request assistance if needed. Notification will be conducted in a direct telephone or face to face communication. Information about suspected child abuse is highly confidential. Dissemination must be restricted to only those persons with a need to know. At the initial reporting,

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notification, and investigation stages, all parties must be sensitive to the fact they are dealing with allegations. The commanding officer will monitor the activities of any military personnel involved, to reasonably ensure the safety of family members and to prevent obstruction of an investigation into the incident. A military protection order (MPO) may be issued for this purpose. A sample MPO is attached in appendix B of this enclosure.

(2) During this initial stage the FSC Director's notification of command personnel will be conducted in confidentiality by a communication directly to the commanding officer or executive officer.

(3) Command personnel will work cooperatively with the FSC's Family Advocacy Staff, the CPS investigating social worker, and the civilian and federal law enforcement agents to accomplish a timely investigation. This may include a protected interview and examination of the child to determine if there is substance to the allegation. The identity of the child and parents will be held private among the command and investigating personnel at this stage of the child abuse investigation process.

c. Parent Notification. Timely notification of the alleged offending and non-offending parent(s) will be conducted. This notification will be sequenced contingent on the nature of the allegations, the severity of the suspected abuse and neglect, and the need for an initial protected interview of the child or children. The fact that a child can be intimidated by threats from an offending or non-offending parent can contaminate an initial investigative interview of the child. The parents' rights will be safeguarded as directed by state and federal laws, the UCMJ, DoD Directives, and Marine Corps orders. Thus, as soon as practically possible parents will be notified of allegations and actions taken. The FSC must coordinate notification of military parents through the CPS Social Worker and the appropriate commanding officer. A command representative should be present at the notification.

(1) The CPS Social Worker has the primary responsibility to notify the parents of allegations and actions.

(2) When circumstances preclude the CPS social worker from notifying the parents, such notification will be coordinated by the FSC Family Advocacy Staff. With the advice of the commanding officer, the appropriate and most effective person to notify the parents will be decided upon on a case by case basis choosing from the following personnel:

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- (a) FSC Director,
- (b) FSC Family Advocacy Staff,
- (c) CDC Director,
- (d) Commanding Officer or his representative, or
- (e) Appropriate civilian supervisor.

d. Investigation procedures

(1) The Memorandum of Understanding between MCRD and CPS provides specific steps to follow in the investigation stage of a suspected child abuse case. See paragraph 4 of the Memorandum of Understanding, enclosure (2), for procedural details.

(2) If CPS is called upon to provide assistance on the Depot, the Provost Marshal will alert the gate sentries that a state vehicle or vehicles are being invited aboard the Depot and are to be directed to the Family Service Center. The Provost Marshal's Criminal Investigation Division (CID), will contact the NIS Resident Agent, inform the NIS Agent of the report, and request investigative assistance. The NIS Agent will be requested to provide investigative assistance and represent federal interests in assisting the CPS investigation. If NIS is not available or declines, CID will provide investigative assistance.

(3) Appendix C is provided to explain jurisdictional issues involved with state officials acting on the depot. The Commanding General retains ultimate authority as to who may come aboard the depot. The CG is also responsible for the safety of all persons aboard the depot, to include the need to provide protective custody in child abuse cases. Under federal law and Department of Navy regulations, the command is required to cooperate with local officials in child abuse matters.

e. Child Development Center (CDC) Cases. Whenever evidence of suspected child abuse is discovered in the Child Development Center, that fact will be immediately reported to the CDC manager.

(1) The CDC Manager will immediately examine the suspected evidence, and, if in the manager's professional opinion it is consistent with suspected child abuse, it will immediately be reported to the FSC Director. If, after conferring with the FSC Director, the CDC manager still reasonably suspects child

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abuse, the CDC Manager will immediately report the information to the CPS Hotline, telephone number 560-2191.

(2) The investigative procedures detailed in the MOU, enclosure (2), will be followed in CDC cases.

(3) The joint CPS and NIS interview of the child will be conducted at the CDC Manager's office or at an FSC counseling office, contingent on which will be more effective for that particular case.

(4) Notification of command personnel and parent notification will be carried out as detailed in paragraphs 2b and 2c of this enclosure.

f. Cases occurring on-board MCRD. The identification of an incident of child abuse or neglect actually in progress on-board MCRD may take place. (Incidents such as physical abuse of a child by a parent while shopping at the exchange or the neglect of a child found unattended and locked in a vehicle in the parking lot have occurred.)

(1) The immediate concern is for the protection and safety of the child or children. Appropriate action will begin with calling the Military Police and requesting immediate response.

(2) The Military Police, upon assuming control of the situation, will begin the reporting and notification procedures detailed in paragraphs 2a, 2b, and 2d of this enclosure.

g. All other cases. All other cases of suspected child abuse should be reported at once to the Director, Family Service Center. The procedures detailed above will be followed in handling the cases.

h. After hours and weekend reporting. After hours and on weekends, reports should be made immediately to the Officer of the Day (4-1276) and the Provost Marshal Desk Sergeant (4-4202). The Officer of the Day will use the recall roster to contact the appropriate FSC personnel. In cases which involve military personnel stationed aboard the depot, the Officer of the Day will notify the appropriate commanding officer or executive officer.

3. Conclusion. The identification and reporting of reasonably suspected child abuse cases is of critical importance. The first concern for protection of children will prevail in the process of investigating suspected child abuse and neglect cases. Parents rights will be protected as mandated by state law and military

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directives. Command notification and involvement is essential to effectively carry out the procedures detailed above and timely notification will be conducted. The identities of children and parents at the initial stage of reporting and investigation will be protected as guided by the Privacy Act and the instructions provided above. It is at the initial stage that we are dealing with allegations not substantiated facts. Thus, avoiding unnecessary distress to children and parents will be important. The accomplishment of the final objective of protection of children, care for parents, and effective work in the Marine Corps will be accomplished by a cooperative coordinated response by all parties.

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APPENDIX A

California Child Abuse Reporting Law, Penal Code, Article 2.5,
Child Abuse and Neglect Reporting Act: Synopsis of Reporting
Duties, Mandated Reporters, and Penalties.

1. Reporting Duties. Section 11166 of the law requires that: "...any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment who he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident."

2. Mandated Reporters. Under the law child care custodians, health practitioners or employees of a child protective agency, are required to report and as such are mandated reporters.

a. Child care custodian. Under the law, Section 11165.7, a "child care custodian" includes an administrator or employee of a child day care facility, such as the MCRD Child Development Center.

b. Health Practitioner. Under the law, Section 11165.8, a "health practitioner" includes a: physician; surgeon; psychiatrist; psychologist; dentist; licensed nurse; dental hygienist; optometrist; marriage and family counselor (MFCC); licensed clinical social worker (LCSW); emergency medical technician; paramedic; unlicensed intern or trainee including a psychologist intern, trainee or assistant, MFCC trainee or intern, LCSW trainee or intern; coroner; or a religious practitioner who diagnoses, examines, or treats children.

3. Punishment for failure to comply with reporting duties. Section 11166.5, states that individuals who are issued a state license or certificate to engage in the professions or occupations specified above are required to sign a statement provided by the employer "...to the effect that he or she has knowledge of Section 11166 and will comply with its provisions." Failure to comply is "...a misdemeanor punishable by up to six months in jail or by a fine of \$1,000 or by both." Conditions for retaining a license include obeying this law and violation of the law may be grounds for suspension or revocation of a license.

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4. Supervisor Interference and Punishment: The reporting duties under Section 11166 are an individual responsibility. Section 11166.1 states, no supervisor or administrator may impede the reporting or sanction any person for making a report. Internal administrative procedures shall not require a reporter to disclose his or her identity. A supervisor or administrator who interferes with individual reporting duties could be punished by imprisonment in the county jail for a maximum of 6 months or fined a maximum of \$1,000 or by both.

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APPENDIX B

MILITARY PROTECTION ORDER (MPO)

1. Commanding officers are responsible for the security and safety of members under their command and persons within areas for which they are responsible. They have inherent authority to take reasonable actions commensurate with that responsibility. Officers in command must be prepared to act decisively in cases involving alleged child and spouse abuse. The fact of recourse being available in the civilian community should not preclude taking affirmative action under this provision. In fact the command may be able to act more expeditiously than the civilian courts and should do so until action for a Temporary Restraining Order (TRO) from a civilian issuing authority is completed.
2. Commanding officers are specifically authorized to issue Military Protective Orders (MPOs) to ensure the safety and security of persons within their commands. Commanding officers are referred to herein as issuing authorities. The format set forth herein is suggested, not required, since similar actions could be taken without specific authorization.
3. MPOs may be directed to military members and may be broad in scope since members are subject to military orders.
4. MPOs directed to civilians are necessarily limited in their scope, since civilians are not generally subject to military orders. MPOs to civilians would generally be limited to orders commensurate with the Commanding General's authority to maintain security and to control the activities of employees, residents, and guests on the Depot. These include barment orders, employer directives, and housing directives.
5. MPOs are similar to civilian Temporary Restraining Orders. They may be ex parte, that is issued after hearing only one side of the story, if the issuing authority considers it necessary to ensure the safety and security of persons for whom the command is responsible. If ex parte, they should be of short duration, normally not more than ten days. If a longer duration is required, the individual should be given an opportunity to be heard and to respond to allegations. In cases not requiring ex parte determinations, a person should be given the opportunity to be heard and to respond before being given an MPO. Formal hearings are not required.

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6. MPOs are based upon a balancing of interests. The greater the crisis and the need to protect, the greater the need to move quickly and to focus on the safety of the persons needing protection. As the crisis diminishes and long term solutions are considered, the greater the need for considering the rights of all persons involved.

7. MPOs are administrative rather than punitive in nature, but their imposition does not preclude simultaneous or later action under the UCMJ. Whether or not such disciplinary action is contemplated, care should be taken in preparing the MPO to avoid the appearance of pretrial punishment prohibited by article 13 of the UCMJ, or pretrial restriction which can start the government's speedy trial accountability under Rule for Court Martial 707 of the Manual for Courts-Martial (MCM).

8. MPOs shall relate to matters involving the abuse and may include but are not limited to:

a. Direction to stay away from designated person(s);

b. Direction to stay out of or away from designated areas or places including military housing, the family home, schools, day care centers, places of employment;

c. Direction to refrain from contacting (to include refraining from telephone and written contact), harassing, or touching certain named persons;

d. Direction to do or refrain from doing certain acts or activities pending easing of the crisis situation;

e. Direction to provide monetary support for family members.

9. The order should specify its duration, the factors permitting the lifting of the order, or the fact that it is in effect until further notice by the issuing authority or designee.

10. Issuing authorities should seek the advice and assistance of the Depot family advocacy team members since family violence ignores traditional professional borders. FSC Family Advocacy staff, Medical and Mental Health Unit professionals, Provost Marshal, and Staff Judge Advocate will all play a significant role. Early intervention and cooperation is essential to ensure maximum success.

11. MPOs need not be in writing. To avoid confusion and misinterpretation, however, written orders are recommended.

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Issuing authorities may use the format below for drafting orders. If written, the actual orders should not be placed in personnel service records, although the information concerning the underlying event may be.

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SAMPLE MPO

From:
To:
Via:

Subj: MILITARY PROTECTION ORDER ISSUED TO _____ CONCERNING
ALLEGATIONS OF CHILD/SPOUSE ABUSE

Ref: SECNAVINST 1752.3

1. You are hereby directed to abide by the following Military Protective Order, issued under reference (a). You are required to obey this order whether you receive it orally or in writing. Violation of this order may result in administrative or disciplinary action including possible trial by court martial.

2. This order is an administrative action to ensure the safety and security of the persons listed below. It is also intended to protect you from further allegations concerning spouse and/or child abuse while the order is in effect. The issuance of this order is not the beginning of disciplinary action against you, nor does it mean that you cannot be punished for any actions taken before or after this order.

3. This order is issued concerning your association and contact with the following persons:

4. You are directed to:

5. This order shall remain in effect until _____ unless sooner canceled by me (by _____), or by higher authority.

Copy to: PMO
FAPM

Appendix B to
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APPENDIX C

Jurisdiction in Child Abuse Cases

1. Subparagraph 4a(4) of the Memorandum of Understanding (MOU) between MCRD and the San Diego County Child Protective Service (CPS) implies that the county CPS has independent authority to remove a child from MCRD without the concurrence of the Commanding General. This provision follows a long standing federal policy to allow local officials to have jurisdiction over child abuse cases aboard military installations. The federal government follows this policy because there is no express authority in federal law which permits federal officials to remove a child from a home on a federal installation. Likewise, no federal law gives federal officials authority to subsequently place the child in protective custody. To do so, the federal government must rely on local officials, acting under authority of state or local laws. This federal policy is codified to some extent in federal law and military regulations. While the Commanding General's actions in regards to child abuse cases are limited by these policies, laws, and regulations; he could refuse CPS entry to MCRD based on his inherent authority as installation commander.

2. MCRD is a federal enclave with mostly exclusive federal jurisdiction. The MOU does not retrocede partial jurisdiction to the state. A retrocession of jurisdiction would require congressional action and compliance with statutory procedures. To date the Commanding General has ceded no jurisdiction to local authority.

3. Since MCRD remains under exclusive federal jurisdiction, the Commanding General ultimately retains total authority over the installation. CPS's authority to remove children from the Depot is based primarily on an invitation from the Commanding General. This invitation is memorialized in an agreement, the MOU. Theoretically, the Commanding General could change the MOU and retain his authority to make the decision whether to turn over a child to CPS. The force of the agreement and CPS's authority aboard MCRD, however, are in fact grounded not only in the Commanding General's invitation, but also in the federal policy discussed above. Furthermore, federal statutes and military regulations uphold the policy.

4. The Social Security Act grants authority to the states to provide child welfare services for the purpose of preventing child abuse. Title 10 U.S.C. section 2683 enables the Secretary of the Navy to relinquish all or part of federal legislative

Appendix C to
ENCLOSURE (3)

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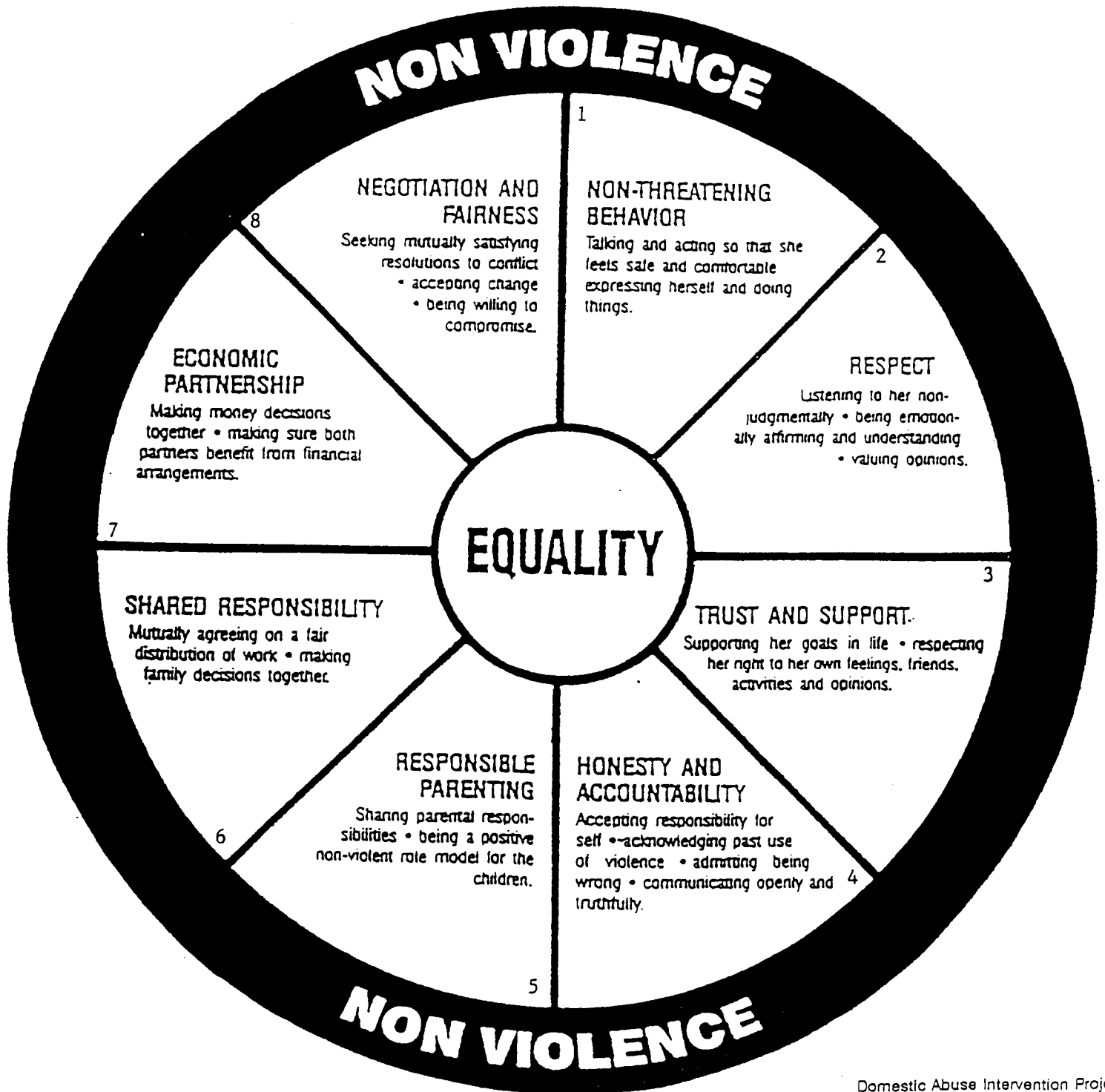
1 8 MAR 1994

jurisdiction over Navy or Marine installations in any state. Under subparagraph 6k of reference (b), the Secretary relies on the above cited section of the U.S. Code as authority to require installation commanding officers to "cooperate with civilian agencies by observing local laws pertaining to child abuse." The Secretary, however, has ceded no jurisdiction to local authority. As alternate authority, the Secretary cites Memoranda of Understanding, such as that between the Commanding General and San Diego County CPS.

Appendix C to
ENCLOSURE (3)

EQUALITY AND NON-VIOLENCE WHEEL

Dep0 1752.2A
11 MAY 1995

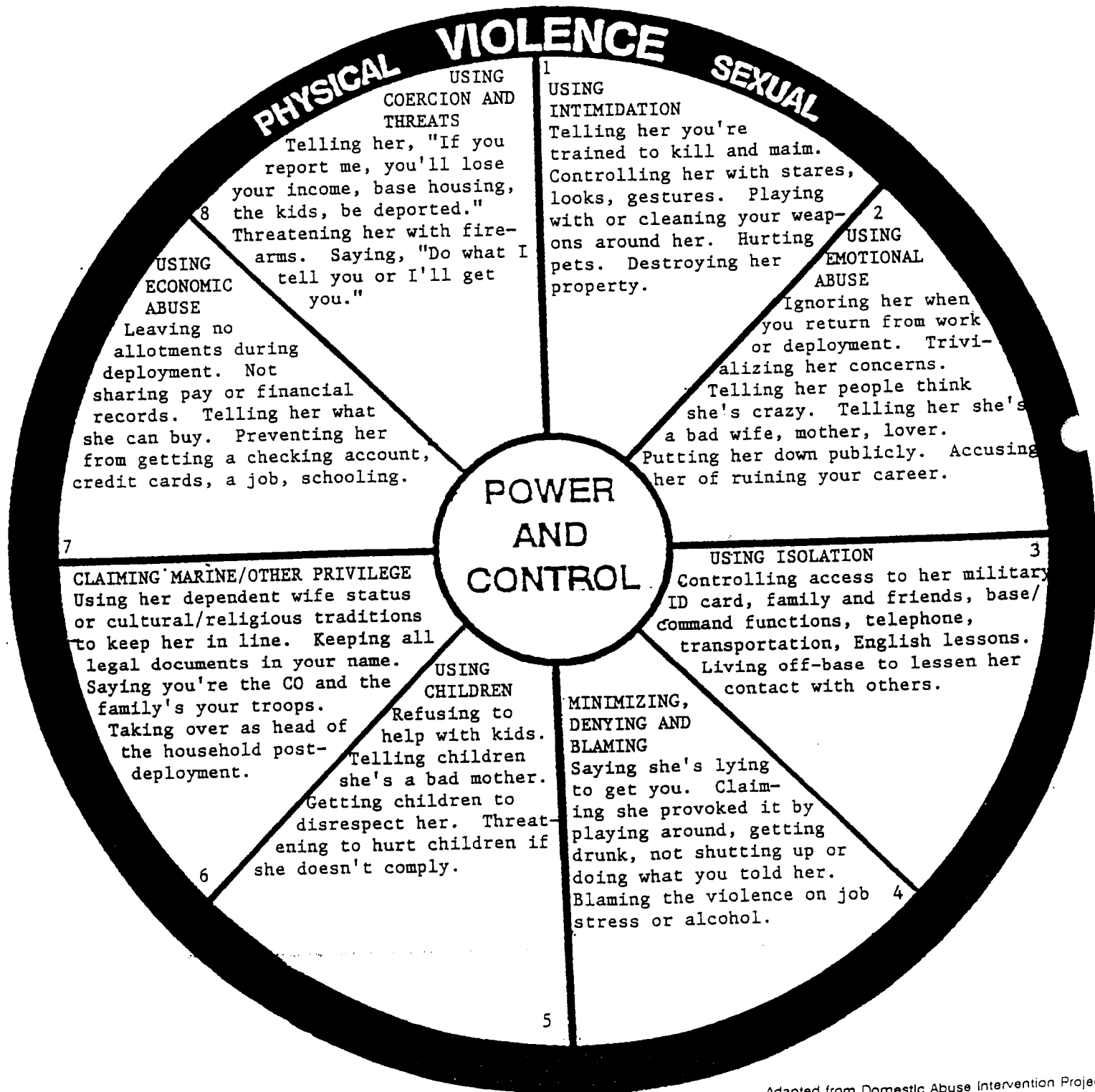


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ENCLOSURE (4)

1 1 MAY 1995

POWER AND CONTROL WHEEL



Adapted from Domestic Abuse Intervention Project
206 West Fourth Street
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11 MAY 1995

CULTURAL VALUES WHEEL

